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UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

Johnathan B. Woods,

Debtor.

Case No. 2:12-bk-13564-PS
Chapter 13

**MOTION FOR RELIEF FROM THE
AUTOMATIC STAY**

Bank of America, N.A., as successor by
merger to BAC Home Loans Servicing, LP
FKA Countrywide Home Loans Servicing LP,
by its attorney-in-fact Carrington Mortgage
Services, LLC,

Re: Real Property Located at
3930 East Cody Avenue
Gilbert, AZ 85234

Movant,

v.

Johnathan B. Woods, Debtor; and Russell
Brown, Trustee,

Respondents.

Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP
FKA Countrywide Home Loans Servicing LP, by its attorney-in-fact Carrington Mortgage
Services, LLC, (“Movant”), moves this Court for an Order terminating the Automatic Stay so
that Movant may commence eviction proceedings in the Maricopa County Superior Court

1 regarding the property commonly known as 3920 E. Cody Ave., Gilbert, AZ 85234
2 (“Property”) and known by its legal description of:

3
4 Lot 432, of Carol Rae Ranch, according to the Plat of Record in the Office of the
5 County Recorder of Maricopa County, Arizona, Recorded in Book 395 of Maps,
6 Page 24 and Affidavits of Correction Recorded as 95-345898, as 96-0353476 and
as 96-0740382, all of official records.

7
8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 **I. Statement of Facts**

10 1. On June 18, 2012, Debtor commenced the current Chapter 13 Bankruptcy proceeding in
11 this Honorable Court.

12 2. On February 16, 2010, prior to the Debtor filing for bankruptcy protection, the Property
13 proceeded to non-judicial foreclosure and was placed for trustee’s sale by auction. At that time,
14 BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing LP bid the loan
15 amount and received title to the property by a Trustee’s Deed Upon Sale (“Trustee’s Deed”),
16 which was signed on February 17, 2010, and recorded in the Maricopa County Recorder’s
17 Office on February 22, 2010, as Document No. 20100142541. See Exhibit A. Movant is
18 listed as the owner to the Property according to the Maricopa County Assessor’s Office. See
19 Exhibit B.
20
21

22 3. BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing LP merged
23 with and into Bank of America, N.A. See Exhibit C.
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1 4. Bank of America, N.A. previously filed a Motion for Relief from the Automatic Stay
2 and Notice of Motion for Relief from Stay at DE#46 and 44, respectively. This Motion was
3 withdrawn at DE#71.
4

5 5. Bank of America, N.A., by it's attorney-in-fact Carrington Mortgage Services, LLC is
6 proceeding again with this Motion.

7 6. Upon information and belief, Jonathan B. Woods, ("Debtor") resides in the Property.
8

9 **II. Argument**

10 The trustee's sale of the property occurred prior to the Debtor's bankruptcy filing so no
11 stay was in place at that time. As a result of the trustee's sale, the Property is no longer
12 property of the Debtor or of the Estate. The Debtor continues to reside in the Property so
13 Movant as the rightful owner of the Property seeks stay relief to exercise its state court
14 remedies, which may include forcible entry and detainer proceedings so that it may obtain
15 possession.
16
17

18 **III. Conclusion**

19 WHEREFORE, Movant prays for judgment as follows:
20

- 21 1. For an Order granting relief from Automatic Stay, permitting Movant to exercise its
22 state court remedies including eviction proceedings;
23
24 2. For an Order waiving the 14-day stay provided by Bankruptcy Rule 4001(a)(3);
25
26 3. For an Order binding and effective despite any conversion of this Bankruptcy
proceeding; and,

27 //

28 //

1 4. For such other relief as this Court deems appropriate.
2
3

4 DATED this 29th day of September, 2015.
5

6 /s/ Alex Schulz
7 Christina Harper, Esq.
8 Alex Schulz, Esq.
9 THE MORTGAGE LAW FIRM, PC
10 301 E. Bethany Home Road, #A-227
11 Phoenix, Arizona 85012
12 *Attorneys for Movant*

13 ORIGINAL filed by ECF and
14 COPIES of the foregoing were mailed
15 this 29th day of September, 2015, to:

16 Jonathan B. Woods
17 3930 E. Cody Ave
18 Gilbert, AZ 85234
19 *Debtor*

20 Russell Brown
21 Chapter 13 Trustee
22 3838 N. Central Ave Ste. 800
23 Phoenix, AZ 85012

24 U.S. Trustee
25 Office of the U.S. Trustee
26 230 N. First Avenue, Suite 204
27 Phoenix, AZ 85003-1706
28

29 /s/ Janette Belmontes